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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/634,696 | 08/06/2003 | Mey-Chu Lan | CP3014-AMP06500 | 7554 |

46824 7590 04/05/2005

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EXAMINER

VANAMAN, FRANK BENNETT

| | |
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| ART UNIT | PAPER NUMBER |
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3618

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,696

Applicant(s)

LAN, MEY-CHU

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Oath/Declaration

1. The Declaration filed lacks a reference to the parent application of which the instant application is a continuation-in-part.

Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the buckles (claim 2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. In the instant application, the drawings illustrate what appears to be one or two flat objects, shown in section, however these illustrated devices do not appear to be buckles.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. Applicant's inclusion of the continuing data of the instant application as the first paragraph is noted. The wording of much of this paragraph is grammatically confusing, for example: "which is assigned to the invention of the present invention" (line 4); "in this

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specification of the invention as a part of the invention" (lines 6-7). Continuing data may be presented as follows:

"When a nonprovisional application (other than a CPA) is entitled under 35 U.S.C. 120 to an earlier U.S. effective filing date, a statement such as "This is a divisional (>or< continuation, >or< continuation-in-part>, as appropriate<) application of Application No. ---, filed ---" should appear as the first sentence of the description or in an application data sheet." (From MPEP 201.11).

Such a sentence, without redundant and grammatically confusing language, is preferred in the presentation of continuing data.

4. The abstract of the disclosure is objected to because it is replete with grammatical informalities, for example: at page 1, line 12, there appears to be at least one word missing between "stable in" and "moving or"; at page 1, lines 19-20, "for being traded by the user" is informal; as is "turns its moving direction" at page 1, lines 24-25. This is an exemplary listing only. The entire specification should be carefully reviewed for grammatical informalities and revised accordingly. Correction is required. See MPEP § 608.01(b).

5. The following is a quotation of the pertinent portions of 37 CFR 1.71:

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

6. The specification is objected to for failing to set forth an adequate written description of the invention. At page 4, lines 8-11 the specification refers to an adhering

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of the treadle and body using a pair of buckles, however the specification does not describe the operation of any pair of devices understood to be a buckle in the commonly held definition. Additionally, the drawings do not appear to illustrate any devices which constitute buckles as they are understood to be defined by the commonly held definition. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 2 refers to the connection of the treadle and body portion with a pair of buckles, however the specification as filed does not appear to describe how any device commonly known as a buckle can connect the treadle and body.

8. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4, lines 2-3, the recitation contradicts the recitation of claim 1, lines 5-6: claim 1 locates the ear at a front of the treadle, and provides for a stud which the ear engages, while claim 4 locates the stud at a different position not compatible with a forwardly located ear, which engages the stud.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patmont et al. (US 6,431,302) in view of Ondrish, Jr. (US 5,950,754). The reference to Patmont teaches a scooter (10) having a handle supporter (28), a linkage seat (57), a

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linkage (14, 58), a body (50), wherein the lower handle end is engaged with the linkage (see figures 2, 3), the bottom of the body having front (16) and rear (18) wheels) a treadle (12) on the upper side of the body, the treadle having a pair of ears (front of 12) which are located on either side of the linkage. The reference to Patmont fails to teach the treadle as being pivotally liftable, with the ear being connected to a stud portion on the linkage. Ondrish, Jr., teaches a scooter device having a treadle (58) which is pivotally connected to a frame portion by pivotal mounting to a stud portion (68, 70) on a frame portion (e.g., 26), so that the treadle may be pivoted to gain access to the scooter mechanism. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the scooter treadle of the reference to Patmont to be pivotably movable as taught by Ondrish, Jr., for example by providing a receiver such as taught at 60/66 in Ondrish, Jr, proximate one or both ear portions of the treadle of Patmont, and a mating stud portion on the linkage (e.g., at 14) for the purpose of allowing the treadle of Patmont to be pivotally moved (and thus relatively movable and positionable with respect to the scooter body), for the purpose of allowing access to the battery portions of the scooter taught by Patmont.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patmont et al. in view of Ondrish, Jr., and David (US 5,167,597). The references to Patmont and Ondrish, Jr. are discussed above and fail to teach the provision of ear and pivot stud at the lower end of a stand tube of a seat. David teaches a scooter structure which includes, beyond a handle bar portion, a seat (70) connected to a scooter body (16) with a stand tube (14). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the scooter taught by Patmont and modified by Ondrish, Jr., with a seat, and stand tube for supporting the seat, for the purpose of allowing a rider to use the scooter while seated. As regards the provision of the pivotal connection at the seat stand tube rather than the handle supporting linkage, inasmuch as the references of Patmont and Ondrish, as combined, teach the provision of a pivotal connection, it would have been obvious to one of ordinary skill in the art at the time of the invention to place the pivotal connection so as to be rearwardly mounted on the

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scooter so as to allow a user easy access from the front of the scooter, rather than the rear thereof.

Claims Not Rejected over the Prior Art

12. Claim 2 is not rejected as being anticipated by or obvious over the prior art of record, however this claim is not in condition for allowance in view of the rejection set forth under 35 USC §112, First Paragraph.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Norman (US 1,771,813), Rohner (US 6,213,484), Sauve (US 6,227,324), Wang et al. (US 6,227,555; 6,311,994 and 6,311,998) teach scooter and cycle structures of pertinence.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326
After Final Amendments: 703-872-9327
Customer Service Communications: 703-872-9325

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

F. VANAMAN
Primary Examiner
Art Unit 3618



3/30/05